

ESTTA Tracking number: **ESTTA106124**

Filing date: **10/25/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	3M Company
Granted to Date of previous extension	10/25/2006
Address	3M Center, 2501 Hudson Road Saint Paul, MN 55144 UNITED STATES

Attorney information	Michael S. Metteauer Fulbright & Jaworski, L.L.P. 600 Congress Ave.Suite 2400 Austin, TX 78701 UNITED STATES mhernandez@fulbright.com, mmetteauer@fulbright.com, aotrademark@fulbright.com, trademarks@mmm.com, kpfertner@fulbright.com Phone:512.474.5201
----------------------	---

Applicant Information

Application No	78180141	Publication date	06/27/2006
Opposition Filing Date	10/25/2006	Opposition Period Ends	10/25/2006
Applicant	MAGCHEM INC. 1271 Ampere Boucherville, J4B5Z5 CANADA		

Goods/Services Affected by Opposition

Class 011. All goods and sevicees in the class are opposed, namely: water treatment specialties, namely, corrosion and scale inhibitor, boiler water dispersant and anti-foaming chemicals sold as a unit with water treatment equipment namely filters, water softeners, and chemical injection units for the treatment of process water, waste water and water systems such as cooling towers, steam generating systems, closed cooking loops and hot water heating systems mainly to prevent corrosion, scaling, microbiological growth and to control total dissolved solids

Attachments	20061025155432.pdf (5 pages)(161860 bytes)
-------------	---

Signature	/Martin G. Hernandez/
Name	Martin G. Hernandez
Date	10/25/2006

TRADEMARK

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No.: 78/180,141
By MagChem Inc. for the Mark: AQUACURE
Filed: October 30, 2002
Published in the Official Gazette on June 27, 2006

3M Company,

Opposer,

v.

MagChem Inc.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

3M Company ("Opposer"), a Delaware corporation having a principal place of business at 3M Center, 2501 Hudson Road, St. Paul, Minnesota, 55144-1000, believes that it will be damaged by registration of the mark in Application Serial No. 78/180,141, and opposes this Application under the provisions of 15 U.S.C. § 1063.

As grounds for this opposition, Opposer asserts that:

1. Opposer owns the mark AQUA-PURE.
2. Through its predecessors-in-interest, Opposer adopted and began using the AQUA-PURE mark at least as early as January 23, 1958 in connection with water filters and components of water filters, and has used its AQUA-PURE mark over the past five decades in connection with a variety of water filtration and treatment systems and related products.

3. Today, Opposer uses its AQUA-PURE mark in connection with a variety of water treatment and filtration products and is one of the nation's leading manufacturers of water treatment and filtration products.

4. Opposer's AQUA-PURE mark is inherently distinctive.

5. Opposer's AQUA-PURE mark serves to identify and indicate the source of Opposer's products to the consuming public.

6. Opposer has developed an enormous amount of goodwill in its AQUA-PURE mark. This mark is well-known and respected by consumers and represents Opposer's commitment to providing high quality products to consumers.

7. As a result of Opposer's long use and extensive promotion of its AQUA-PURE mark, the AQUA-PURE mark has become distinctive to designate Opposer, to distinguish Opposer and its products from the products of others, and to distinguish the source or origin of Opposer's products. As a result of Opposer's efforts, the consuming public throughout the United States widely recognizes and associates the AQUA-PURE mark with Opposer and its products.

8. As a result of Opposer's long use and extensive promotion of the AQUA-PURE mark, Opposer has acquired valuable common law rights in the AQUA-PURE mark throughout the United States.

9. In accordance with federal law, Opposer has registered its AQUA-PURE mark on the Principal Register of the United States Patent and Trademark Office, Registration No. 2,512,066 covering "water filters and components thereof, namely, filter cartridges for reduction of hard water, acid water, iron, lead, dirt, rust and sediment from drinking water supplies, from hot water systems, and from household appliances and humidifiers, for domestic and industrial use" in International Class 11. This registration is valid and enforceable. A copy of this registration is attached hereto as Exhibit A.

10. Applicant Magchem, Inc. ("Applicant") seeks to register, on an intent-to-use basis, the mark AQUACURE for "water treatment specialties, namely, corrosion and scale inhibitor, boiler water dispersant and anti-foaming chemicals sold as a unit with water treatment equipment namely filters, water softeners, and chemical injection units for the treatment of process water, waste water and water systems such as cooling towers, steam generating systems, closed cooking loops and hot water heating systems mainly to prevent corrosion, scaling, microbiological growth and to control total dissolved solids" in International Class 11 ("Applicant's goods").

11. The mark that Applicant seeks to register so resembles Opposer's AQUA-PURE mark as to be likely, when used on or in connection with Applicant's goods, to cause confusion, or to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to falsely believe that the goods of Applicant offered under the AQUACURE mark are sponsored, endorsed, or approved by Opposer, or are in some way affiliated, connected, or associated with Opposer or Opposer's goods.

12. Registration of the AQUACURE mark would be a source of damage to Opposer because purchasers are likely to attribute the source or sponsorship of Applicant's goods to Opposer.

13. Registration of the AQUACURE mark would be a source of damage to Opposer, as it would confer upon Applicant various statutory presumptions to which it is not entitled in view of Opposer's long prior use of its AQUA-PURE mark.

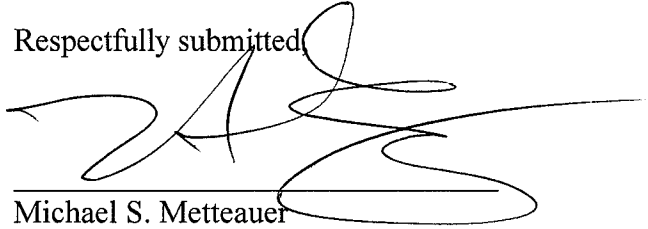
WHEREFORE, 3M Company prays that Application Serial No. 78/180,141 be rejected, and that registration of the mark therein be refused under 15 U.S.C. §§ 1052(d) and 1063.

The filing fee in the amount of \$300.00 required by 37 C.F.R. § 2.6(a)(17) is being paid electronically via credit card with this Notice of Opposition. The Commissioner is authorized to draw on the deposit account of Fulbright & Jaworski L.L.P., Account No. 50-25709927.1

1212/10609754/THRT:211/MSM, in the event that anything prohibits the successful completion of electronic payment of the filing fee.

Date: October 25, 2006

Respectfully submitted

A handwritten signature in black ink, appearing to be 'MSM', written over a horizontal line.

Michael S. Metteauer
Martin G. Hernandez
FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
Tel: 512.474.5201
Fax: 512.536.4598

ATTORNEYS FOR OPPOSER
3M COMPANY

Int. Cl.: 11

Prior U.S. Cls.: 13, 21, 23, 31 and 34

Reg. No. 2,512,066

United States Patent and Trademark Office

Registered Nov. 27, 2001

**TRADEMARK
PRINCIPAL REGISTER**

AQUA-PURE

**CUNO INCORPORATED (DELAWARE COR-
PORATION)
400 RESEARCH PARKWAY
MERIDEN, CT 06450**

**FOR: WATER FILTERS AND COMPONENTS
THEREOF, NAMELY, FILTER CARTRIDGES RE-
DUCTION OF HARD WATER, ACID WATER, IRON,
LEAD, DIRT, RUST AND SEDIMENT FROM
DRINKING WATER SUPPLIES, FROM HOT WA-
TER SYSTEMS, AND FROM HOUSEHOLD APPLI-**

**ANCES AND HUMIDIFIERS, FOR DOMESTIC AND
INDUSTRIAL USE, IN CLASS 11 (U.S. CLS. 13, 21, 23,
31 AND 34).**

FIRST USE 1-23-1958; IN COMMERCE 1-23-1958.

SER. NO. 76-055,843, FILED 5-19-2000.

EDWARD NELSON, EXAMINING ATTORNEY